

In the Detailed Action, the Examiner indicated that the application contains claims directed to the following patentably distinct species of the claimed invention:

Species A directed to Figure 1;  
Species B directed to Figure 2;  
Species C directed to Figure 3;  
Species D directed to Figure 4; and  
Species E directed to Figures 5-6.

Applicants provisionally elect, with traverse, Species A directed to Figure 1. Pending Claims 1-36 read on the provisionally elected species. Currently, Claim 1 is generic.

Applicants respectfully traverse the requirement for an election of species and requests reconsideration and withdrawal or modification of the requirement. A restriction requirement is proper under the PTO's rules if either (1) the claimed inventions are "independent," i.e. unrelated to one another, or (2) the claims are "patentably distinct," i.e. "unobvious" within the meaning of 35 USC § 103, relative to one another. Applicant believes that the inventions described in Claims 1-36 are neither "independent" nor "patentably distinct" to warrant restriction between them. Specifically, Claims 1-16 describe a *"magnetic flux through a controllable material in a direction parallel to the shaft and perpendicular to the working portion."* Claims 17-36 describe *"through a controllable material parallel to the shaft and perpendicular to the working portion . . . and, perpendicular to the shaft and to the outer periphery of the rotor."* The species of Claims 1-16 and 17-36 are connected in design, operation and effect. MPEP § 808.01.

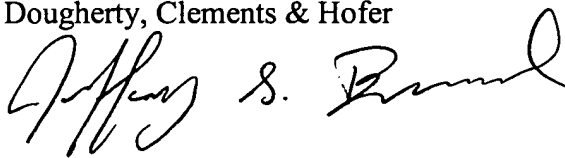
Applicants submit that it would present no undue burden for the Examiner to search all of the pending claims and the associated species. Each of these species relate to a controllable brake comprising: *a housing comprising a first and second chamber; a shaft; a rotor made integral with the shaft; a field generating means located within the first housing; a field responsive means located within the first chamber; and, control means located in the second chamber.*

Additionally, Applicants take no position with respect to the Examiner's statement that none of the claims are generic. Applicants understand that the claims shall be restricted to the elected species if no generic claim is finally held allowable.

In view of the foregoing, the Applicants respectfully request that the election requirement be withdrawn upon reconsideration.

Respectfully Submitted,

Dougherty, Clements & Hofer

A handwritten signature in black ink, appearing to read "Jeffrey S. Bernard". The signature is fluid and cursive, with the first name "Jeffrey" being the most prominent part.

Jeffrey S. Bernard  
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